

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CEA NO. 170 OF 2006

DATE OF DECISION: 20.03.2007

Commissioner of Central Excise Commissionerate, Ludhiana.

...Appellant

Versus

M/s Varinder Agro Chemical Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ramesh Sharma, Advocate,
for the appellant-revenue.

JUDGMENT

M.M. KUMAR, J. (Oral)

The revenue has approached this Court by filing this appeal under Section 35G of the Central Excise Act, 1944, against the order dated 1.3.2006, passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi. The categorical findings as recorded by the Deputy Commissioner as well as by the Commissioner have been affirmed by the Tribunal, which were to the effect that the assessee did not charge the amount of duty from the buyer and subsequently sought to return the same to him through credit notes. The findings further are that the higher amounts which were sought as

refund were never paid by the buyer. On the basis of the aforementioned findings, the judgments laying down the principles of unjust enrichment have not been applied.

We have heard learned counsel and find that no exception has been provided to reopen the issue. The pure findings of facts have been recorded which shows that instance of tax has never been passed on to the buyer which may necessitate to invoke the principles of unjust enrichment. There is no merit in the appeal.

Dismissed.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

March 20, 2007

Pk Kapoor